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**UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA**

AMERICAN CIVIL LIBERTIES
UNION FOUNDATION OF
SOUTHERN CALIFORNIA,
Plaintiff,

v.

UNITED STATES IMMIGRATION
AND CUSTOMS ENFORCEMENT,
UNITED STATES DEPARTMENT
OF HOMELAND SECURITY,
Defendants.

Case No. 2:22-CV-04760-SHK

**[PROPOSED] ORDER GRANTING
PLAINTIFF'S MOTION FOR
PARTIAL SUMMARY JUDGMENT
AGAINST DEFENDANT
IMMIGRATION AND CUSTOMS
ENFORCEMENT**

Honorable Shashi H. Kewalramani
United States Magistrate Judge

ACLU of Southern California v. U.S. ICE, et al.,

Case No. 2:22-CV-04760-SHK

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FOR SUMM. J. AGAINST ICE

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1 This matter comes before the Court on Plaintiff's Motion for Partial Summary
2 Judgment Against Defendant Immigration and Customs Enforcement ("ICE"), and
3 Defendant ICE's Cross-Motion for Summary Judgment. Upon consideration of the
4 argument and evidence submitted by the parties, it is hereby ORDERED that:

5 Plaintiff's Motion for Partial Summary Judgment Against ICE is GRANTED
6 in full. Defendant ICE's Cross-Motion for Summary Judgment is DENIED in full.

7 The Court finds that Defendant ICE failed to follow clear leads related to Parts
8 1, 2, 3, 5, 6, 7, 8, and 9 of Plaintiff's FOIA Request. Defendant ICE shall conduct
9 searches for responsive records based on these leads, as detailed below.

- 10 1. For Parts 1-3 of Plaintiff's FOIA Request, the Parties shall meet and confer to
11 identify three custodians from among the ICE representatives referenced in
12 Exhibit V, Cho Decl. (March 4, 2021 email chain re "VARGAS-Arellano,
13 Martin, A205 718 808"). ICE shall conduct a search of records for those three
14 custodians and for Corey Price using the search terms "Vargas Arellano" or
15 "Vargas-Arellano" or Martin w/5 Vargas or Martin w/5 Arellano or Martin
16 w/5 Arellano or "A205 718 808" or "205-718-808" or "205 718 808," and a
17 timeframe of March 1, 2021 to December 31, 2022. ICE shall also search for
18 and produce any expert report or memorandum related to the DHS Office of
19 Civil Rights and Civil Liberties' investigation into any complaints related to
20 Mr. Vargas Arellano, including ICE's failure to prepare a death notice or death
21 report for him.
- 22 2. For Part 5 of Plaintiff's FOIA Request, ICE shall conduct a search for and
23 produce copies of ICE's Significant Detainee Illness (SDI) lists, from January
24 1, 2016 to the present, as well as emails, agendas, and notes regarding SDI
25 meetings. In conducting this search, ICE shall task Dr. Ada Rivera (Deputy
26 Medical Director, IHSC) and a sufficient set of staff from ICE's ERO Field
27 Operations to ensure that, for the entire time period of January 1, 2016 to the
28 present, at least one of the ERO staff members searched was regularly
participating in the SDI meeting.
3. For Parts 6 and 7 of Plaintiff's FOIA Request, ICE shall conduct a search of
its Joint Intelligence Operations Center (JIOC) for Significant Incident Reports
(SIRs), dated from January 1, 2016 to the present, as well as analyses and
summaries of SIR reports. In conducting this search, ICE shall use the search
methodology—including the search terms and narrowing Boolean search—

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identified in Defendants' June 22, 2023 letter for Part 6, Exhibit Q, Cho Decl, at 3.

4. For Part 8 of Plaintiff's FOIA Request, ICE shall conduct a search for responsive records from records compiled for *Fraihat v. ICE*, No. 5:19-cv-1546 (C.D. Cal.), including the *Fraihat* Compliance System referenced in ICE's Pandemic Response Requirements. *See* ICE, *Pandemic Response Requirements* 17 (Version 8.0, Apr. 2, 2022), <https://www.ice.gov/doclib/coronavirus/eroCOVID19responseReqsCleanFacilities-v8.pdf> [<https://perma.cc/3JDD-AQZ8>]. ICE shall conduct this search using the search methodology—including the search terms and narrowing Boolean search—listed in its Search Summary for the emails of Dr. Stewart Smith for Part 8. *See* Search Summary, Exhibit A, Cho Decl, at 10-11.
5. For Part 9 of Plaintiff's FOIA Request, ICE shall conduct the search it committed to conduct on November 2, 2023. *See* Defs' Nov. 2, 2023 Letter, Exhibit K, Cho Decl., at 5-6. In other words, ICE shall task the "nine individuals" identified in its letter ("the Regional Field Medical Coordinators and the Regional Health Service Administrators within IHSC"). *Id.* ICE shall use the search methodology—including the search terms and narrowing Boolean search—identified in that letter. *Id.* at 6.
6. For each of these searches ordered by the Court, ICE shall provide hit count information, broken down by search terms, within 15 days of this order. Should ICE staff encounter any technical difficulties with any of these searches, ICE shall alert Plaintiff and arrange a meet and confer, with technical staff from ICE and if applicable, ICE's subcomponent, present, within 15 days of this order. ICE shall complete all searches within 30 days of this order, and produce all responsive, non-exempt records within 60 days of this order. If ICE withholds any responsive documents or portions of responsive documents as exempt, Plaintiff may identify specific withholdings for ICE to include in a *Vaughn* index, and ICE must provide a *Vaughn* index for these withholdings within 30 days.

IT IS SO ORDERED.

Dated: _____

Hon. Shashi H. Kewalramani
United States Magistrate Judge

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